



THE CITY OF NEW YORK
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BY ECF

Honorable Barbara C. Moses
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

MEMO ENDORSED

Re: Benjamin Case, et al. v. City of New York, et al.,
14 Civ. 9148 (JLR) (BCM)

Your Honor:

I am the attorney assigned to represent defendants in the above-referenced matter. Defendants write to: 1) provide availability for a settlement conference with the Court; 2) respectfully request that the Court permit a representative of the New York City Office of the Comptroller to participate as needed by phone in the settlement; and 3) respectfully request the Court excuse the appearance of the individual defendants at any settlement conference. Plaintiff's counsel consents to these requests.

Regarding scheduling, counsel for all parties and the plaintiff are available June 13 and 14, 2023.¹ The Court had previously advised that June 1, 2023 was an available date. However, the undersigned will be out of the office on family leave during the months of June and July and will not be able to appear on that date. Another attorney from this Office will cover this appearance, but is unavailable the first week of June. Counsel have conferred and have identified June 13 and 14 as the next available dates in June.

The request to permit a Comptroller representative to participate by phone is made due to the scheduling limitations of representatives from the Office of the Comptroller. There are a limited number of court representatives from the Office of the Comptroller who are called upon to represent the City in court proceedings in state and federal courts throughout the City. Permitting the Comptroller representative to participate as needed by phone in this conference will ensure that they can effectively appear in the other actions in which they may be needed.

¹ The undersigned has not yet been able to confirm the availability of the individual defendants.

Further, defendants request that the individual defendants in this action be excused from attending in person. The claims against the defendants arose in the course of their discharge of their duties as members of the New York City Police Department (“NYPD”), and they are represented by the Office of Corporation Counsel pursuant to General Municipal Law 50-k. Thus, the ultimate party in interest is the City, which will be represented at the conference by counsel and the Office of the Comptroller. Additionally, all decision making authority regarding the settlement of this matter in whole, or in part, rests with the City. Defense counsel will appear at the conference and is fully familiar with the facts underlying this case. Accordingly, defendants respectfully request that their attendance be excused.

Lastly, plaintiff respectfully requests that the Court schedule *ex parte* calls with the parties prior to the submission of *ex parte* conference statements. Defendants have no objection to this request or proceeding in accordance with the Court’s regular practices.

Defendants thank the Court for its consideration.

Respectfully submitted,



/s/
Hannah V. Faddis
Senior Counsel

cc: All Counsel of Record

Application GRANTED, to the extent that:

1. The individual defendants are excused from attendance at the settlement conference.
2. The Comptroller representative may attend by telephone. Defendants are reminded that the City must have a representative at the conference with **full authority** to settle this action. *See* Sched. Order ¶ 1(a); *see also* Order dated May 4, 2023 at Dkt. 85 in *Lopez v. New York City Dep't of Educ., et al.*, Case No. 17-CV-9205 (S.D.N.Y.).
3. Judge Moses will conduct a pre-settlement telephone conference with counsel only on **June 1, 2023, at 11:00 a.m.** On that date, a few minutes before their scheduled time, counsel must call (888) 557-8511 and enter the access code 7746387. The Court will supply a confidential passcode by email on the date of the conference.

SO ORDERED.



Barbara Moses
United States Magistrate Judge
May 5, 2023